

REMARKS

Claims 1-32 are pending, of which claims 1-3 and 11-15 have been examined, while claims 4-10 and 16-32 have been withdrawn from further consideration by the Examiner. Claims 1, 2, 3, 5, and 6 have been amended.

Election/Restriction

Claims 4-10 and 16-32 have been withdrawn from further consideration by the Examiner as being directed toward a non-elected species. Applicant requests that claims 4-10 and 16-32 be rejoined if generic claim 1 is allowed.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-3, 11-13 and 15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Chan (U.S. Patent No. 5,891,150). This rejection is respectfully traversed.

Claim 1 recites a set of surgical instruments for repairing a cartilage surface on a posterior surface of the patella. The set of surgical instruments includes a first instrument with a channel defining a longitudinal axis that extends from the channel to intersect an anterior surface of the patella, and a second instrument mountable to the first instrument that includes a surface configured to be placed against a posterior surface of the patella. The longitudinal axis of the channel intersects the surface of the second instrument when the second instrument is mounted to the first instrument.

Chan does not describe at least the claimed relationship between the first and second instruments.

The Examiner has equated the track member 22 of Chan to the claimed first instrument, the curved slide track 115 of Chan to the claimed channel, and the boom member 40 to the claimed second instrument. However, even if the drill guide assembly 5 of Chan could be arranged such that a longitudinal axis of the track 115 (or any other channel of assembly 5) would intersect an anterior surface of a patella, and such that a surface of boom member 40 would be placed against a posterior surface of the patella, a configuration which applicants do not concede, the longitudinal axis would not intersect the surface of the boom member.

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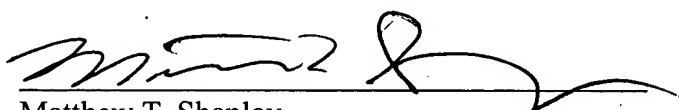
Therefore, applicant submits that claim 1, and its dependent claims, are patentable over Chan for at least this reason.

Applicant does not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, Applicant may have not addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by Applicant to any of the Examiner's positions does not constitute a concession of the Examiner's positions. The fact that Applicant's comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. Applicant submits that all of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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